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Group 2700

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4-27-99

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: A. TANAKA et al.

Serial No.: 08/895,886

Filed: July 17, 1997

For: DATA RECONSTRUCTION METHOD AND SYSTEM
WHEREIN TIMING OF DATA RECONSTRUCTION IS
CONTROLLED IN ACCORDANCE WITH CONDITIONS
WHEN A FAILURE OCCURS (As Amended)

Group: 2784

Examiner: H. Nguyen

Batch No.: P10

PETITION TO THE COMMISSIONER UNDER 37 CFR 1.181(a)(1)
FOR COMPLETE NOTICE OF ALLOWABILITY

Box Issue Fee
Assistant Commissioner for Patents
Washington, D.C. 20231

March 17, 1999

Sir:

The Notice of Allowance and the Notice of Allowability
both dated February 16, 1999, in connection with the
above-identified application are acknowledged. However, it is
submitted that the Notice of Allowability of February 16 is
incomplete for the reasons discussed below.

It is respectfully requested that a decision on this
petition be issued before the due date of May 16, 1999, for
paying the issue fee set in the Notice of Allowance of
February 16.

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STATEMENT OF THE FACTS

On July 20, 1998, the applicants filed an Information Disclosure Statement (IDS) in which they cited, inter alia, U.S. patent application Serial No. 08/895,986 filed on July 17, 1997. As indicated in the IDS of July 20, pursuant to 37 CFR 1.98(a)(2)(iii), a copy of U.S. patent application Serial No. 08/895,986 was not provided with the IDS of July 20. The IDS of July 20 included a form PTO-1449 on which U.S. patent application Serial No. 08/895,986 was listed.

On February 16, 1999, the Examiner issued a Notice of Allowance and a Notice of Allowability. The Notice of Allowability of February 16 includes a copy of the form PTO-1449 from the IDS of July 20 initialed by the Examiner to indicate that all of the references listed on the form PTO-1449 have been considered except U.S. patent application Serial No. 08/895,986. The Examiner has drawn a line through U.S. patent application Serial No. 08/895,986 listed on the form PTO-1449, thereby indicating that this citation has not been considered pursuant to MPEP 609 (Original Seventh Edition, July 1998, page 600-112, right-hand column) which provides as follows in pertinent part:

Those citations not considered by the examiner will have a line drawn through the citation and any citations considered will have the examiner's initials adjacent thereto.

However, it is submitted that U.S. patent application Serial No. 08/895,986 was cited in the IDS of July 20 in conformance with 37 CFR 1.97 and 1.98 and MPEP 609, such that

the Examiner was required to consider U.S. patent application Serial No. 08/895,986 by MPEP 609 (Original Seventh Edition, July 1998, page 600-112, right-hand column) which provides as follows in pertinent part:

Examiners must consider all citations submitted in conformance with the rules and this section, and their initials when placed adjacent to the considered citations on the list or in the boxes provided on a form PTO-1449 or PTO/SB/08A and 08B provides a clear record of which citations have been considered by the Office.

and by MPEP 609 (Original Seventh Edition, July 1998, page 600-113, right-hand column) which provides as follows in pertinent part:

If a U.S. patent application number is listed on a PTO-1449 or PTO/SB/08A and 08B form or its equivalent and the examiner considers the information and initials the form, the application number will be printed on the patent.

Accordingly, since the Examiner did not consider U.S. patent application Serial No. 08/895,986 cited in the IDS of July 20 in the Notice of Allowability of February 16 as she was required to do by MPEP 609, it is submitted that the Notice of Allowability of February 16 is incomplete.

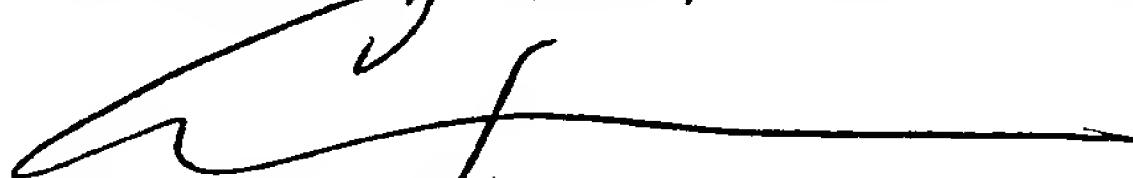
RELIEF REQUESTED

Since the Notice of Allowability of February 16 is incomplete for the reasons discussed above, pursuant to 37 CFR 1.181(a)(1), it is respectfully petitioned that the Examiner issue a complete Notice of Allowability including another copy of the form PTO-1449 from the IDS of July 20 initialled by the

Examiner to indicate that U.S. patent application Serial No.
08/895,986 listed on the form PTO-1449 has been considered.

Respectfully submitted,

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